



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

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WATER
DIVISION

NOV 21 2019

MEMORANDUM

SUBJECT: Idaho Hells Canyon SSC for Temperature
Tribal consultation and Coordination History

FROM: Rochelle Labiosa, WQS Coordinator *[Signature]*

THRU: Hanh Shaw, Standards and Assessment Manager

TO: Dan Opalski, Water Division Director

On September 12, 2018, EPA sent invitation letters to potentially affected tribal governments offering government-to-government consultation on the agency's pending Clean Water Act action on Idaho's revised site-specific criteria (SSC) for temperature for the Hells Canyon Reach of the Snake River. The original signed copies were mailed to the tribal chairs, while a generic electronic version was attached to an email to tribal environmental program staff and managers. The EPA also offered two coordination calls to share information and discuss the Idaho submittal.

Many of the invited tribal environmental program staff and managers attended the informational session, and two tribes requested government-to-government consultation, the Shoshone-Bannock Tribes and the Nez Perce Tribe. In addition, the Upper Snake River Tribes (USRT) and Columbia River Inter-Tribal Fish Commission (CRITFC) submitted written comments, as did the Shoshone-Bannock Tribes, expressing concern regarding approval of the SSC.

The EPA included information regarding the scientific points raised by the tribes and consortia (to the extent possible) in the 2019 Biological Evaluation of the EPA's proposed action to approve the SSC, which EPA submitted to NMFS and USFWS on April 4, 2019. In particular, the EPA raised concerns about concomitant low dissolved oxygen levels in the Snake River below the Hells Canyon Dam as an additional stressor and confounding factor to coldwater fish, the impacts of climate change on potentially affected species and possible cumulative effects with the action, and uncertainties in the available data and studies that were submitted to the EPA in support of the SSC revision. In its review of the potential effects of the action, the EPA highlighted the likely underestimate of effects presented in the results of some of the studies (e.g., Geist et al. 2006; due to study design), as well as quantified the effects based on the most representative and conservative of the data sets submitted.

Chronology of Communications with the Tribes:

- September 12, 2018 – EPA mailed hardcopy letters to tribal chairs and sent an email with a generic version of the letter attached to tribal environmental programs and consortia
- October 1, 2018 – EPA sent a reminder invitation to tribal environmental program and consortia contacts for the first informational conference call on October 3, 2018

- October 3, 2018, conference call #1
 - Tribal Environmental Program and Consortia Invitees: Candon Tanaka, Shoshone-Bannock Tribes; Scott Hauser, USRT; Kristin Pete, Shoshone Paiute Tribes; Jaime Pinkham, CRITFC; Carol Kriebs, Kootenai Tribe; D.R. Michel, UCUT tribes; Eric Quaempts, Umatilla Tribe; Robin Harris, Umatilla Tribe; Scott Fields, Coeur d'Alene Tribe; Taylor Aalvik, Cowlitz Tribe; Elizabeth Sanchey, Yakama Nation; Robert Brunoe, Confederated Tribes of the Warm Springs; Brent Hall, Umatilla Tribe; Ken Clark, Nez Perce Tribe; Erica Maltz, Burns Paiute Tribe
 - EPA Participants: Hanh Shaw, John Palmer, Mary Lou Soscia, Rochelle Labiosa
 - A follow-up request from attendees was that EPA share the most recent NOAA Snake River Fall Chinook Recovery Plan; R. Labiosa sent the link to the requested document after conference call #1 to all invitees
 - Main page:
https://www.westcoast.fisheries.noaa.gov/protected_species/salmon_steelhead/recovery_planning_and_implementation/snake_river/snake_river_fall_chinook_recovery_plan.html
 - Direct link to plan:
https://www.westcoast.fisheries.noaa.gov/publications/recovery_planning/salmon_steelhead/domains/interior_columbia/snake/Final%20Snake%20Recovery%20Plan%20Docs/final_snake_river_fall_chinook_salmon_recovery_plan.pdf
- October 15, 2018 – EPA hosted a second informational conference call (with the same invitees as first conference call)
- November 20, 2018 – EPA received a letter from USRT
- November 20, 2018 – EPA received a letter from the Shoshone-Bannock Tribes requesting formal government-to-government consultation
- February 6, 2019 – EPA hosted an informational pre-call for the Nez Perce Tribe (prior to the government-to-government consultation meeting)
- February 14, 2019 – EPA hosted an informational pre-call with Candon Tanaka of the Shoshone-Bannock Tribes to prepare for government-to-government consultation with the Shoshone-Bannock Tribes
- February 26, 2019 – EPA received an emailed letter and white paper from CRITFC describing updated information, analysis, and comments relevant to the EPA's decision
- February 28, 2019 – EPA conducted government-to-government consultation with the Shoshone-Bannock Tribes
- April 23, 2019 – EPA conducted government-to-government consultation with the Nez Perce Tribe (April 22, 2019 shared a handout and slides as pdfs)
- March 29, 2019 – EPA sent a government-to-government consultation closure letter to the Shoshone-Bannock Tribes
- May 9, 2019 – EPA sent a government-to-government consultation closure letter to the Nez Perce Tribe
 - EPA sent the Nez Perce Tribe a copy of the final Biological Evaluation, NOAA's letter agreeing to initiate formal consultation; and the USFWS letter concurring with the agency's determination of not likely to adversely affect (or NLAA) regarding the bull trout and designated critical habitat.
- September 25, 2019 – NOAA transmitted the Biological Opinion to EPA, with copies to Shoshone-Bannock Tribes, Nez Perce Tribe, and other tribes.